MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE CITY OF GALESBURG,
THE ILLINOIS DEPARTMENT OF TRANSPORTATION,
AND THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER,
REGARDING THE
KELLOGG/SEMINARY STREET GRADE SEPARATION, CITY OF GALESBURG, KNOX COUNTY, ILLINOIS

WHEREAS, the City of Galesburg (the City) in coordination with the Illinois Department of Transportation (IDOT), plans to construct a grade separation and overpass on Seminary and Kellogg Streets (Project) in Knox County, Illinois, (Section 05-00501-21-GS);

WHEREAS, the Federal Highway Administration (FHWA) may fund the Project thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. Section 470f, and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, the FHWA has defined the undertaking's area of potential effect (APE) as the Galesburg Historic District boundaries as shown in Appendix A; and

WHEREAS, FHWA in consultation with the Illinois State Historic Preservation Officer (SHPO) has determined that standing structures which contribute to the historical significance of the Galesburg Historic District, even without necessarily being eligible for the National Register of Historic Places (NRHP) individually, are located within the project's APE;

WHEREAS, FHWA and IDOT, in consultation with SHPO, have determined that archaeological deposits associated with these historic properties may contain scientific data contributing to their eligibility for the NRHP; and

WHEREAS, in accordance with 36 CFR Part 800, the FHWA acknowledges and accepts the advice and conditions outlined in the Council's "Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites," published in the Federal Register on June 17, 1999; and

WHEREAS, FHWA has invited the City and the IDOT to participate in consultation and to become a signatory to this Memorandum of Agreement (MOA). The Galesburg Landmark Commission (the Commission) has been invited to participate in consultation and become a concurring party to the MOA;

WHEREAS, the following Tribes were notified of the undertaking on May 23, 2009: Ho-Chunk Nation, Peoria Tribe of Indians of Oklahoma, Citizen Potawatomi Nation, Forest County Potawatomi, Hannahville Indian Community, Pokagon Band of Potawatomi Indians, Prairie Band Potawatomi Nation, Sac and Fox Nation of Mississippi in Iowa, Sac and Fox Nation of Missouri, Sac and Fox Nation of Oklahoma. No concerns have been expressed from any of the Tribes;

WHEREAS, FHWA notified the Advisory Council on Historic Preservation (ACHP) of the preparation of this MOA, and in a letter dated August 18, 2011, the ACHP declined to participate in the consultation for the Project;

WHEREAS, execution and implementation of this MOA evidences that FHWA has satisfied its Section 106 responsibilities for the Project; and

NOW, THEREFORE, FHWA, the City, IDOT, and SHPO agree that the Project shall be implemented in accordance with the following stipulations to ensure that potential effects on historic properties are taken into account.

STIPULATIONS

The FHWA shall ensure that the following measures are carried out.

I. MARKETING

A. The consulting parties agree that 234-236 North Kellogg Street cannot remain its existing location for the Project to be built. The City, in consultation with the SHPO, shall offer 234-236 North Kellogg (the Building) for sale for a period of three (3) months, with an additional three (3) months to be moved from its current location. The marketing period shall commence on the first day of advertisement of the Building for sale. For the sale, the City shall prepare a marketing plan for the Building which shall include the following elements:

1. An advertising plan and schedule.
2. A process for receiving and reviewing offers.
3. Information on the property's cost.
4. An information package about the Building including:
    a. Photographs and site plan of the Building.
    b. A parcel map.
    c. Information on financial incentives available in conjunction with the purchase and rehabilitation of the Building.
    d. Notification of the requirement for a restrictive preservation covenant in the deed transfer document (attached as Appendix B).
    e. Notification that the purchaser must rehabilitate the Building in accordance with the recommended approaches of the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings"

B. Upon the SHPO's agreement with the marketing plan, the City shall implement the plan and review all offers received in consultation with the SHPO prior to acceptance. The City shall ensure that transfer of the property incorporates a preservation covenant on the property with the SHPO. An acceptable offer shall include the offer or provide an acceptable plan for rehabilitation and maintenance and evidence of financial capability and expertise.

C. Should the property not sell within the agreed upon marketing period, the City, shall notify the SHPO that no offers were received and the City may sell the Building without a covenant or may demolish the Building.

II. RECORDATION

If the Building will be sold without a covenant or if it is planned for demolition, the City shall document the property in accordance with Level III of the Illinois Historic American Buildings Survey (IL HABS). The SHPO will review the 95% and completed IL HABS documentation and accept or reject the final submittal in writing in accordance with IL HABS Standards. Acceptance of the 95% documentation by the SHPO in writing shall occur prior to disposition of the historic property.

III. ARCHITECTURAL SALVAGE

The City, in consultation with the Commission, shall ensure that a plan for salvage and reuse of architectural elements from the buildings within the Galesburg Historic District is agreed upon, submitted to SHPO for approval and then implemented. The purpose of the plan shall be to provide residents of the Galesburg Historic District with appropriate salvaged materials for use in restoring historic buildings throughout the district.

IV. BRIDGE DESIGN AND LANDSCAPE FEATURES

The City shall consider the comments of the Commission during project design and shall incorporate historic design elements into the overpass and associated landscape features. These features shall include but not be limited to the overpass itself, sidewalks, trees, lighting and fencing. To reduce the footprint of the overpass, the structure will be placed on mechanically stabilized earth (MSE) walls, rather than conventional embankments. Brick sidewalks and stone curbing will be replaced where requested by the Commission and SHPO. Any remaining materials will be stored for use in the City's ongoing brick street maintenance program. Removed landscape trees, sidewalks, and turf will be replaced after construction activities are completed on properties with temporary easements or land acquisitions in consultation with the Commission and SHPO.

V. RESURVEY OF GALESBURG HISTORIC DISTRICT

The City shall undertake a building by building resurvey of structures within the boundaries of the portion of the Galesburg Historic District delineated on the attached map (Appendix A). This survey shall be completed within two years of the approved environmental document and shall be undertaken by the firm of the City's choice as long as it is completed by a person familiar with state survey standards and guidelines and that meets the professional qualifications outlined by the National Park Service in 36 CFR Part 61. The City will provide the SHPO with a copy of the survey upon completion for SHPO review and approval.

VI. ARCHAEOLOGICAL DATA RECOVERY

In consultation with the SHPO, IDOT will prepare a data recovery plan with a research design for any affected significant archaeological deposits associated with impacted historic properties that is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, the Secretary of the Interior's Standards and Guidelines for Archaeological and Historic Preservation, and the Advisory Council on Historic Preservation's Treatment of Archaeological Properties: A Handbook. A generalized data recovery plan (DRP), attached in Appendix C to this agreement, designed for data recovery from historic period Euro-American archeological properties will be used.

VII. DURATION

This MOA will be null and void if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, the City may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

VIII. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented the FHWA shall consult with such party to resolve the objection. If the FHWA determines that such objection cannot be resolved the FHWA will:

A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the Advisory Council on Historic Preservation. The ACHP shall provide the FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FHWA will work with IDOT and the City to address comments from the ACHP and FHWA will send a written response to ACHP that takes into account the timely advice or comments regarding the dispute from the

ACHP, signatories and concurring parties, and provide them with a copy of this written response. The FHWA will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. The FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

IX. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

X. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the FHWA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The FHWA shall notify the signatories as to the course of action it will pursue.

Execution of this Memorandum of Agreement by the FHWA and the SHPO, evidences that the FHWA has complied with Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations 36 CFR 800 and that the FHWA has taken into account the effects of this project on historic properties.

FEDERAL HIGHWAY ADMINISTRATION

By: Matt Tuttle

Date: November 29, 2011

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: Anne E. Haaker

Date: 11·29·11

INVITED SIGNATORIES

ILLINOIS DEPARTMENT OF TRANSPORTATION

By: Darrell Lewis

Date: 11/17/11

CITY OF GALESBURG

By: [illegible]

Date: 11/7/2011

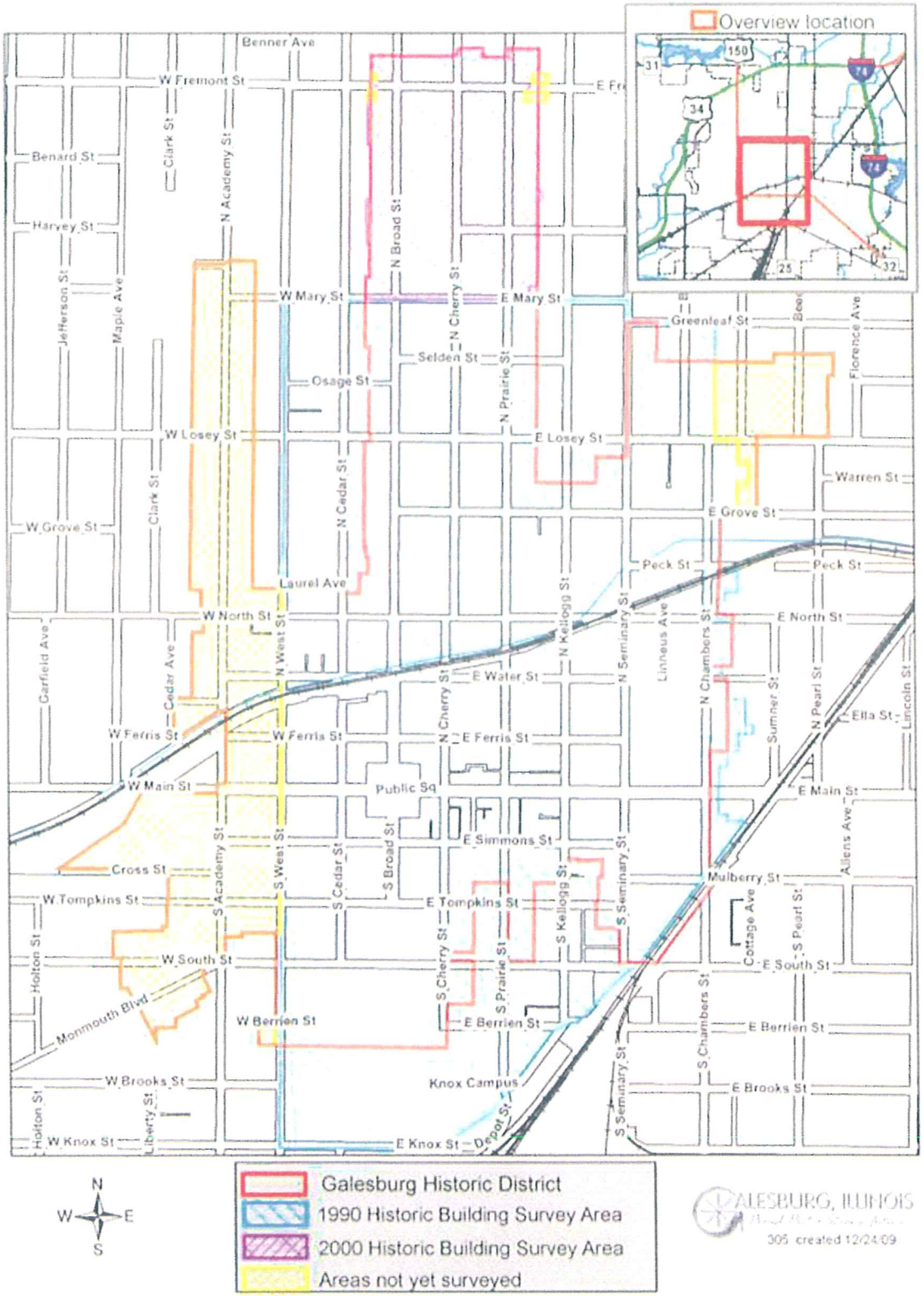
CONCURRING PARTY

GALESBURG LANDMARK COMMISSION

By: Paul H. Stewart

Date: Nov. 01, 2011

APPENDIX A: GALESBURG HISTORIC DISTRICT BOUNDARY



The "Areas not yet surveyed" (shaded yellow) will be included in the building-by-building survey in partial fulfillment of the mitigation measures listed in the Memorandum of Agreement.

APPENDIX B

PRESERVATION COVENANT

In consideration of the conveyance of certain real property, 234-236 N. Kellogg Street in the city of Galesburg of the County Knox, State of Illinois and legally defined as Section 1 of Township 11 North, Range 1 East:

(1) The grantee hereby covenants on behalf of itself, its heirs, successors and assigns at all time to restore, maintain and preserve this property in accordance with the recommended approaches of the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic buildings" (National Park Service, 1989) in order to preserve those qualities that make this property eligible for listing on the National Register of Historic Places.

(2) No construction, alteration or rehabilitation shall be undertaken or permitted to be undertaken that would affect the historic features of the property without consultation with and the express permission of the Illinois Historic Preservation Agency (IHPA) or a fully authorized representative thereof.

(3) The IHPA shall be permitted at all reasonable times to inspect the property in order to ascertain if the above conditions are being met.

(4) In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, the IHPA may, following reasonable notice to the grantee, institute suit to enjoin said violation or to require the restoration of the property.

(5) This covenant is binding on the grantee, its heirs, successors and assigns in perpetuity. All stipulations and covenants contained herein shall be inserted by the grantee verbatim or by express reference in any deed or other legal instrument by which the grantee divests itself of any interest in the property or any part thereof.

(6) The failure of the IHPA to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or use of such right or remedy at any other time.

(7) This covenant shall be a binding servitude upon the property and shall be deemed to run with the land. Execution of this covenant shall constitute conclusive evidence that the grantee agrees to be bound by the foregoing conditions and restrictions and to perform to obligations herein set forth.

(8) The IHPA may, for good cause, modify or cancel any or all of the foregoing restrictions upon application of the grantee, its heirs, successors or assigns.

Signatures required:

_____

IHPA Date

_____

Purchaser Date

APPENDIX C: STANDARD DATA RECOVERY PLAN FOR HISTORIC SITES

Introduction

The Illinois Transportation Archaeological Research Program (ITARP), a joint program of the University of Illinois at Urbana-Champaign (UIUC) and the Illinois Department of Transportation (IDOT), prepared this data recovery plan for the archaeological mitigation of historic sites. This plan was developed in accordance with the Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716), and "The Treatment of Archaeological Properties" published in 1980 by the Advisory Council on Historic Preservation. All procedures outlined in this plan are implemented using standard ITARP techniques, which are outlined in *ITARP Field Manual 2005: Standard ITARP Field Procedures for Phase I, II, and III Archaeological Investigations*.

The IDOT and Illinois State Historic Preservation Officer have jointly determined that the historic sites to be investigated with this recovery plan are eligible for the National Register of Historic Places (NRHP) under Criterion D and that these sites may not be avoided by the proposed project.

Natural Setting

The natural setting for archaeological sites excavated under this data recovery plan will be examined (prior to conducting further excavation) in the appropriate existing documentation and in the field. A verbal description of the natural setting will accompany maps and photographs in the final reporting of the site. Midwestern archaeological studies have noted a preference among early Euro-American pioneers to build their first homes along timber-prairie borders. Environmental factors, such as protection from the elements and proximity to timber, water, and wild animal resources, and cultural factors, such as origin of the settler and proximity to roads, both affect the placement of early settlement homes and farms. General Land Office survey and plat maps, coupled with native vegetation information from county soil surveys, assist in the reconstruction of local environments during the early settlement era. In much of the State, survey maps were created prior to and immediately following the initial Euro-American settlement. Government land transfer and original land entries/patents provide information about locations of early settlements. Further information from county history books, census data, and assorted primary source documents such as letters and diaries can also assist in reconstruction of the environmental and cultural factors affecting individual and group settlement. Aerial photographs and modern maps (US Geological Survey, USDA soil survey, etc.) provide documentation of more recent environmental conditions.

Summary of Previous Investigations

In general, sites to be investigated under this data recovery plan were recorded by ITARP personnel during the Phase I survey of the proposed project area. When necessary, existing archaeological and historical property lists will be consulted and oral histories conducted to fully develop a site's history and aid in locating possible features and an understanding of a site's stratigraphy and distribution across the landscape. Phase I testing at the site will have revealed the presence of intact cultural material and the site's potential to significantly contribute to the history of this area in order to warrant additional investigation.

Research Design

The data generated by excavations at the historic site(s) will be used to examine at least three broad topics: (1) settlement patterns and land distribution; (2) architecture; and (3) subsistence practices. Insights into changing patterns of community organization may also be gained, as may insights into

changes in social organization and subscription to mass-produced goods. The data recovered will then be compared with that from other regional sites.

1. **Settlement Patterns and Land Distribution**. The mitigation of historic sites requires the study of patterns of settlement by the pioneers who came to Illinois. The types of sites, their location, number and distribution, all provide important information on early settlement patterns and how they influenced later land development and settlement. In order to understand these settlement patterns, detailed artifact and archival information is required to determine the age, type, and function of specific sites. In addition, data indicating when specific features originated and any transformations in function through time is also needed. Inter- and intra-spatial orientation of structures and features must also be studied.

2. **Architecture.** Building techniques and architectural forms can reflect ethnic identity, stylistic concerns, economic status, and the relative availability of local and imported construction materials. Intact structures dating from the era of earliest Euro-American settlement are comparatively scarce, as many buildings have been abandoned, dismantled, or otherwise destroyed and/or replaced by more recent construction. Early structures are generally poorly documented and specific details regarding their construction are not available. Intact subsurface remains provide information on dwelling size and shape and details of cellar and footing construction. The distribution of hardware, wood, glass, and other structural items within and around the foundation fill offers clues to the appearance of the superstructure. Exposure and detailed mapping of complete foundations is necessary to document the size, orientation, and shape of the dwelling. The construction materials employed need to be identified along with their likely places of origin. Measured plan views, profiles, and photographs of structural features will provide details on construction techniques. Horizontal and vertical provenience data on other structural remains will aid in the interpretation of aspects of the building superstructure.

3. **Subsistence**. Subsistence in early Euro-American farmsteads was based largely on foods produced directly for household consumption. With limited transportation systems and access to processed flour, wheat was an important crop. Water-powered gristmills were among the earliest important industries. Hogs were important sources of meat, cattle provided milk and butter, and chickens were commonly kept for eggs. Fruit trees and vegetable gardens were also important sources of food on many nineteenth century farms. In addition to these homegrown foods, wild plants and animals supplemented the diet. Deer, various small game mammals, fish, waterfowl, and wild turkey were common, along with wild nuts and fruits, which were seasonally available. Flotation samples taken from feature contexts should provide abundant evidence of subsistence. Identification of carbonized and uncarbonized plant remains will document the range of wild, domestic, and exotic plant species present. Wild, domesticated, and imported animal resources will be identified through the analysis of faunal remains recovered from flotation samples, as well as larger specimens recovered through standard excavation procedures.

Mitigation Plan

Investigations will be conducted in compliance with the National Historic Preservation Act of 1966, as amended, and will be carried out by ITARP archaeologists who meet the Secretary of the Interior's professional qualifications standards (48-FR-447838-9). In designing and carrying out the work, ITARP staff will also take into account the Advisory Council on Historic Preservation's publication on the "Treatment of Archeological Properties."

Standard ITARP methods (as outlined in the *ITARP Field Manual 2005*) will be employed in all aspects of the data recovery. The investigation of previously identified historic Euro-American sites will generally parallel that outlined for the prehistoric resources, with the following exceptions. A

standard controlled surface collection grid (generally comprised of 10x10m collection units) will also be used, where possible, as the basis for a gridded metal detector survey to recover that class of artifacts. These individual grid cells will also form the parameters for subsequent machine-aided excavation units, which will be removed in an incremental fashion to increase the artifact sample from the site. Experience indicates that a significant percentage of the historic artifacts from a given site are located in the plow zone and this material, if collected systematically, can provide information about the location of activity loci that are generally not represented by subsurface features (i.e. barnyard activities).

Given this type of systematic plow zone sampling approach, hand excavated units will be used more sparingly on 19th century historic period sites, because intact subsurface deposits are generally rare outside the limits of subterranean facilities. Thus, adequate artifact samples can typically be derived from surface collection, metal surveys, feature excavation, and systematically collected, standard sized machine excavation blocks. However, more rigorous plow zone and A-Horizon sampling, including dry or water screening and bulk flotation sample collection, will be undertaken on sites believed to be attributable to historic Indian, French, and very early British/American period components to amass adequate samples and recover micro-artifacts, such as glass beads.

Due to the large size of many historic cellars and the extremely deep nature of some water collection facilities, standard ITARP excavation protocols allow these features to be sampled as opposed to completely excavated. The cellars will be excavated in quarters (similar to prehistoric structures) so that both the long and short axis profiles can be mapped and documented. Deeper features, such as wells and cisterns, will typically only be sampled to a reasonable depth (ca. one to two meters) because their absolute limits often cannot be established through hand excavation given personal safety considerations. The overall depths of these features may be assessed through additional hand probing or machine trenching once the hand-excavated samples have been removed. Such sampling strategies, however, must obtain an adequate artifact assemblage and other forms of information to determine the feature's temporal placement and construction techniques. In addition, historic posts will be mapped in plan view, but only a subset may be formally excavated depending upon the number encountered and their relationship to other site features. Any posts that are not excavated will be hand-probed to assess their overall depth.

While not expected, should historic mortuary sites or features be encountered, the remains will be mapped and removed in accordance with all procedures and guidelines associated with the Illinois Human Skeletal Remains Protection Act (HSRPA, 20 ILCS 3440, 17 IAC 4170) and detailed in the ITARP excavation manual (ITARP 2005). Disposition of the human remains and any burial artifacts will be accomplished under the provisions of the Act.

In the laboratory, all artifacts will be washed, cleaned, labeled, and sorted by ITARP personnel at the appropriate Survey Division office, following standard ITARP procedures (ITARP 2005). Botanical, zoological, and historical materials will then be analyzed by ITARP specialists at the University of Illinois or by qualified consultants.

All archaeological reports resulting from the project will comply with contemporary standards, including the Secretary of the Interior's "Standards for Final Reports of Data Recovery Programs" (42-FR-5377-79). The ITARP will also insure that all final archeological reports are presented in a format acceptable to the Illinois State Historic Preservation Officer (SHPO), following Illinois SHPO guidelines on report preparation, and that all such reports are presented in a format acceptable to the National Park Service for possible peer review and submission to the National Technical Information Service (NTIS). These reports will be submitted to the Illinois DOT and the IHPA in a timely manner after the completion of all field and laboratory investigations.

Curation

All artifactual materials, records, photographs, and other data associated with this project will be curated at the University of Illinois at Urbana-Champaign and managed by the ITARP in accordance with federal standards as outlined in 36 CFR, Part 79.